

FREEMAN, NOOTER & GINSBERG
ATTORNEYS AT LAW

LOUIS M. FREEMAN
THOMAS H. NOOTER*
LEE A. GINSBERG

75 MAIDEN LANE
SUITE 907
NEW YORK, N.Y. 10038

(212) 608-0808
Cell: (917) 847-1361

*NY AND CALIF. BARS

June 12, 2023

The Honorable Analisa Torres
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Unopposed Letter Motion

RE: United States v. Timothy Shea, et al., 20 Cr. 412 (AT)

Your Honor:

I represent Timothy Shea, one of the defendants in this case, having been appointed after trial but before sentence to replace the late Mr. John Meringolo.

I am in receipt of the letter from the government which pointed out the error in the Court's jury charge on count II of the indictment. Since receiving it last evening I have been endeavoring to decide what position I would take with respect to this issue. I have decided that I do not agree with the government that the issue is harmless, and that I need to investigate and research issues related to the possible ineffective assistance of counsel in prior counsel's having joined in the request for the erroneous instruction, whether count II itself might be defective, and what remedies are available to me at the District Court level (and what must be raised before this Court to preserve any error for review).

I do not think I can manage that investigation and research before tomorrow's sentencing hearing. I am therefore requesting an additional continuance of the hearing so that whatever motions I need to make can be made prior to sentence being imposed.

Because of several other court commitments and my own continuing

(though improving) health situation, I am requested a date from June 28, 2023 or later. I would note that I would otherwise be ready to go forward with the sentencing but I do not want to be in a position of having waived seeking a remedy before this Court because it was not done prior to the imposition of sentence.

I also note that with the other defendants having already been sentenced that they will not be inconvenienced if the Court grants this request.

I have consulted with the attorneys for the government and they said that they take no position on this request.

I have consulted with my client, who is traveling to New York for the hearing tomorrow, and despite that, he has no objection to this request.

I thank the Court in advance for Your Honor's attention to this request.

Sincerely,

/s/ Thomas H. Nooter

Thomas H. Nooter

Attorney for Defendant Shea

cc: AUSAs Robert B. Sobelman, Nicolas Roos, and Derek Wilstrom, by ECF